

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2010-118085-001 DT

06/09/2011

HONORABLE JOSEPH C. WELTY

CLERK OF THE COURT
D. McGraw
Deputy

STATE OF ARIZONA

THOMAS MCDERMOTT
AARON HARDER

v.

MICHAEL JOHN JAKSCHT (001)

ROBYN GREENBERG VARCOE
JENNIFER L WILLMOTT

VICTIM SERVICES DIV-CA-CCC

TRIAL MINUTE ENTRY
DAY 4

| | |
|-----------------------|---|
| State's Attorney: | Thomas McDermott and Aaron Harder |
| Defendant's Attorney: | Robyn Greenberg Varcoe and Jennifer L. Willmott |
| Defendant: | Present |
| Court Reporter: | Lydia Estrada-Gray |

10:36 a.m. Trial to a jury continues from June 8, 2011. The jury is not present.

LET THE RECORD REFLECT that the State's case agent, Jeffery Schuh, is present and seated at State's counsel's table.

Both sides announce ready.

10:38 a.m. The jury is present.

The State's case continues:

Officer Harold McCall is sworn and testifies.

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The witness makes an in-court identification of the Defendant.

The Court receives questions from the jury; same are discussed between the Court and counsel and some of the questions are asked of the witness.

FILED: Jury question forms (3 and 4)

The witness is excused.

Barry Sprink is sworn and testifies.

11:57 a.m. The jury is reminded of previous admonitions and is excused from the courtroom. Court remains in session.

The Court excuses witness Barry Sprink from the courtroom.

Discussion is held regarding a legal issue related to Mr. Sprink's testimony.

IT IS ORDERED precluding the State from asking Mr. Sprink about his opinion regarding the Defendant's state of influence or intoxication. Mr. Sprink can testify about his observations, but he cannot testify as to an expert opinion.

12:06 p.m. The court stands at recess.

1:34 p.m. Court reconvenes with the Defendant and respective counsel present. The jury is not present.

Court Reporter, Lydia Estrada-Gray, is present.

The State's case agent, Jeffery Schuh, is present and seated at State's counsel's table.

The Court notes that it previously indicated that the Defense would be allowed to voir dire Mr. Sprink on the expert opinion issue. As the Court has precluded Mr. Sprink from providing an expert opinion, there will be no voir dire examination of Mr. Sprink by the Defense.

The State cites case law and argues same to the Court in support of the State's oral motion to reconsider.

The Court having reviewed the cited case law provided by the State, and for the reasons set forth on the record,

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IT IS ORDERED denying the State's oral motion to reconsider.

Discussion is held regarding the Defense's objection to State's exhibit 41.

The Court will not preclude the State from using exhibit 41.

Both sides announce ready.

1:51 p.m. The jury is present.

Barry Sprink resumes the stand and testifies further.

The witness makes an in-court identification of the Defendant.

State's exhibits 41, 23, 241, 83, 27, and 46 are received in evidence.

The Court receives questions from the jury; same are discussed between the Court and counsel and some of the questions are asked of the witness.

FILED: Jury Questions 5, 6, 7, 8, 9, and 10

The witness is excused.

3:00 p.m. The jury is reminded of previous admonitions and is excused from the courtroom. Court remains in session.

Discussion is held regarding witness scheduling.

3:01 p.m. The court stands at recess.

3:24 p.m. Court reconvenes with the Defendant and respective counsel present. The jury is not present.

Court Reporter, Lydia Estrada-Gray, is present.

The State's case agent, Jeffery Schuh, is present and seated at State's counsel's table.

Both sides announce ready.

3:25 p.m. The jury is present.

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Samantha Rangel-Miller is sworn and testifies.

State's exhibit 409 is received in evidence.

The witness makes an in-court identification of the Defendant.

The Court receives questions from the jury; same are discussed between the Court and counsel and asked of the witness.

FILED: Juror Question forms (11 and 12)

The witness is excused.

4:22 p.m. The jury is reminded of previous admonitions and is excused from the courtroom until 10:30 a.m. on June 13, 2011. Court remains in session.

Discussion is held regarding witness scheduling.

Pursuant to the Court's discussion with the parties in chambers this morning regarding the disclosure of Michael Broughton,

IT IS ORDERED that the Defense disclose any report written by Mr. Broughton to the State **by close of business on June 17, 2011**. Expert disclosure with respect to Mr. Broughton is to be accomplished **by close of business on June 17, 2011**. Any further motion to preclude Mr. Broughton will be addressed after the State has had an opportunity to review the disclosure.

The Defense is to notify the Court on June 13, 2011, as to whether or not a hearing will be needed with respect to the news clips. The Defense is to review the photographs that have been marked for identification by the State and advise the Court on June 13, 2011, if there are any issues with those exhibits. The State is to review any additional photographs with the Defense prior to having same marked for identification.

4:29 p.m. The court stands at recess **until June 13, 2011, at 10:30 a.m.**

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>. Attorneys are encouraged to review Supreme Court Administrative Orders 2010-117 and 2011-10 to determine their mandatory participation in eFiling through AZTurboCourt.